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VIA ELECTRONIC MAIL

**COLORADO BULLETIN NO.:** CO-300-05-08

April 6, 2005

**SUBJECT:** LTP – Application of the Wetland Conservation Provision to Land Coming Out of the Conservation Reserve Program (CRP)

**TO:** All Employees

**PURPOSE:** To provide guidance on applying the Wetland Conservation provisions of the Food Security Act (FSA) of 1985 to lands that are no longer in the Conservation Reserve Program (CRP) and are being returned to agricultural commodity production.

**EXPIRATION DATE:** This Bulletin Expires September 31, 2005

**BACKGROUND:** As CRP contracts expire, landowners may want to return land previously in CRP to active agricultural use. The FSA states that if land that was subject to such a contract is returned to production of an agricultural commodity, the Highly Erodible Land Conservation and Wetland Conservation requirements shall apply to the use of the land. This bulletin discusses how those conservation provisions apply to land that has reverted to wetlands as a result of the conservation plan implemented under CRP.

**EXPLANATION:** For land to be eligible for enrollment in CRP, it must have been annually planted or considered planted to an agricultural commodity for 4 of the 6 crop years from 1996 to 2001, or, prior to 2002, for 2 of the 5 years preceding enrollment (or 3 of the 10 most recent crop years for land enrolled in the Farmable Wetlands Program). It must also be physically and legally capable of being planted in a normal manner to an agricultural commodity. Based on this cropping history and site conditions, any land enrolled in CRP that reverted to wetlands as a result of the conservation plan, would generally qualify as prior converted cropland or farmed wetland. If the Natural Resources Conservation Service (NRCS) made a certified wetland determination that the land is prior converted cropland or farmed wetland and wetland characteristics returned subsequent to that determination as a result of lack of maintenance of drainage features or a voluntary restoration, enhancement or creation action, then conversion of the wetland back to its earlier prior converted cropland or farmed wetland condition is exempt from the wetland conservation requirements.

For land that was determined to be farmed wetland, the baseline site conditions and the restoration, enhancement or creation actions must have been documented by NRCS. The

proposed conversion actions to return the site to its previous, cropped condition must also be documented by NRCS prior to their implementation. Furthermore, the extent of the proposed conversion must be limited so that the conditions will be at least equivalent to the wetland functions and values that existed at the time of the implementation of the voluntary wetland restoration, enhancement, or creation action.

If NRCS did not make a certified wetland determination prior to the land entering CRP, it is the responsibility of the landowner to provide sufficient documentation and information to allow NRCS to determine the site conditions and status of the land on December 23, 1985, when the FSA was implemented, in accordance with the regulation at 7 CFR 12.33(a). Based on this information, NRCS will provide a certified wetland determination for the land.

**CONTACT:** Prior to converting any wetlands located on lands coming out of CRP, please contact your local NRCS office to ensure that the work complies with the wetland conservation requirements. If further information or clarification is needed regarding this issue, please contact Gene Backhaus at 720-544-2868 or Terri Skadeland at 720-544-2813.

/s/

ALLEN GREEN  
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